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PTO/SB/61 (11-03)

Approved for use through 07/31/2006. OMB 0651-0031

OFFICE OF PETITIONS

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)		Docket Number (Optional) WO-BSX 219
First Named Inventor: Yem Chin	Art Unit: 3731	
Application Number: 09/963,676		
Filed: September 27, 2001	Examiner: EREZO	
Title: METHOD AND APPARATUS FOR MEASURING AND CONTROLLING BLADE DEPTH OF A TISSUE CUTTING APPARATUS IN AN ENDOSCOPIC CATHETER		
 MS Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450 NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9382.		
The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.		
APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION. NOTE: A grantable petition requires the following items:		
(1) Petition fee.		
(2) Reply and/or issue fee.		
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995, and for all design applications; and		
(4) Adequate showing of the cause of unavoidable delay.		
1. Petition fee		
<input type="checkbox"/> Small entity – fee \$ _____ (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27.		
<input checked="" type="checkbox"/> Other than small entity – fee \$ 110.00 (37 CFR 1.17(l)).		
2. Reply and/or fee		
A. The reply and/or fee to the above-noted Office action in the form of		
An Amendment to the Claims (identify the type of reply):		
<input type="checkbox"/> has been filed previously on _____		
<input checked="" type="checkbox"/> is enclosed herewith.		
B. The issue fee of \$ 0.00		
<input type="checkbox"/> has been filed previously on _____		
<input type="checkbox"/> is enclosed herewith.		



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UNAVOIDABLY UNDER 37 CFR 1.137(a)**

3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

August 23, 2004

Date

Signature

(202) 662-4519

Telephone Number

Steven M. War

Typed or printed name

48,024

Registration Number, if applicable

FULBRIGHT & JAWORSKI L.L.P.  
801 Pennsylvania Avenue, N.W.  
Washington, DC 20004-2623

Address

Enclosure ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unavoidable delay

☒ Declaration of Becky Johnson and Declaration of Steven War



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UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

23 August 2004  
Date

  
Signature

48,024  
Registration Number, if applicable

War, Steven M.  
Typed or printed name

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

On October 20, 2003 a Request for Continued Examination was filed in this application. In November of 2003 Examiner Roberts called Applicant's representative to discuss a restriction requirement. On November 10, 2003, in a follow-up conversation, Applicant made a provisional election. No further communication was received from the PTO until Examiner Erez called the Applicant's representative on June 24, 2004. Unbeknownst to Applicant, an Office Action was mailed to Applicant's representative on December 4, 2003. A copy of this Office Action was not received by Applicant's representative until late July 2004. By this time the period to respond had already expired and the application had been unavoidably abandoned. Two declarations with copies of appropriate sections of Applicant's representative's docketing sheets are included to show that the December 4, 2004 Office Action was never received and therefore no dates were entered into the docketing system for a response.

(Please attach additional sheets if additional space is needed)